

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :
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-v- : 20 Cr. 23 (DLC)
:
JOSEPH GUAGLIARDO, : ORDER
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Defendant. :
:
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DENISE COTE, District Judge:

Joseph Guagliardo has moved for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A). On January 10, 2020, Guagliardo pleaded guilty to embezzlement from a federally insured credit union, in violation of Title 18, United States Code, Section 657. On July 23, well after the severe impact of the COVID-19 pandemic had become evident, this Court sentenced Guagliardo to 27 months' imprisonment during a videoconference proceeding. He is serving that sentence at Federal Correctional Institution-Fort Dix. He is sixty-three years old and the Bureau of Prisons ("BOP") projects that he will be released on October 20, 2022.

On October 27, 2020, Guagliardo made a request of his warden for compassionate release. On November 3, the BOP responded to Guagliardo's administrative request for compassionate release by requesting his release plan, which he had not included with his request. A release plan is a required

component of a compassionate release request. See 28 C.F.R. § 571.61(a)(2). Guagliardo did not submit the required release plan. Instead, Guagliardo, proceeding pro se, moved this Court for compassionate release on November 24, 2020.¹ The Government filed its opposition to Guagliardo's motion on January 8, 2021.

The Government does not dispute that Guagliardo's motion is ripe for review, because 30 days have passed since Guagliardo filed his administrative request for compassionate relief. 18 U.S.C. § 3852(c)(1)(A). Since Guagliardo's motion is ripe for review, the Court may reduce his sentence if it finds that "extraordinary and compelling reasons" warrant a reduction, 18 U.S.C. § 3582(c)(1)(A)(i). District courts are tasked with "independently . . . determin[ing] what reasons, for purposes of compassionate release, are extraordinary and compelling."

United States v. Brooker, 976 F.3d 228, 234 (2d Cir. 2020) (citation omitted). If the Court finds that "extraordinary and compelling reasons" are present, the Court must also consider the sentencing factors set forth at 18 U.S.C. § 3553(a) before reducing Guagliardo's sentence.

Guagliardo's petition is denied, as he has not demonstrated that the § 3553(a) factors warrant early release. The

¹ The petition, dated November 24, 2020, was received and docketed by this Chambers on December 1.

Government does not dispute that Guagliardo's age and medical history constitute "extraordinary and compelling" circumstances. Guagliardo is sixty-three years old and suffers from several chronic medical conditions that increase the risk of severe illness from COVID-19. It appears from the record, however, that these conditions are being effectively managed in the correctional setting.

As significantly, the § 3553(a) factors counsel against a reduction of sentence. Guagliardo committed a serious crime. As this Court noted at sentencing, Guagliardo, a former law enforcement officer, took advantage of his senior position at a non-profit credit union to, in essence, steal hundreds of thousands of dollars. This Court accounted for the grave nature of Guagliardo's crime, his underlying medical conditions, and the risks associated with COVID in imposing a sentence of 27 months' imprisonment, which was a sentence at the bottom of the Guidelines range. Guagliardo has served only a few months of that sentence, and no reduction is warranted. Accordingly, it is hereby

ORDERED that the November 24 petition for compassionate release pursuant to § 3582(c)(1)(A) is denied.

IT IS FURTHER ORDERED that the Clerk of Court shall mail Guagliardo a copy of this Order and note mailing on the docket.

SO ORDERED:

Dated: New York, New York
January 13, 2020


DENISE COTE
United States District Judge

Copy mailed to:
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